

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

CYWEE GROUP LTD.,	§	
	§	
Plaintiff,	§	
v.	§	
	§	Case No. 6:20-cv-00128-ADA-JCM
GOOGLE LLC,	§	
	§	
Defendant.	§	

**DEFENDANT GOOGLE LLC'S RESPONSE
TO PLAINTIFF'S MOTION FOR ORAL ARGUMENT**

Judge Manske was correct to deny Plaintiff CyWee Group Ltd. jurisdictional discovery and recommend dismissal of CyWee's common law fraud complaint. CyWee's assertion that Judge Manske's order denying jurisdictional discovery is "inconsistent" with the Court's November 19, 2020 "Standing Order Regarding Venue and Jurisdictional Discovery Limits For Patent Cases" is flatly wrong. First—and most obviously—this is a fraud case, not a patent case, and the Standing Order thus does not apply. Dkt. 1 at 1, ¶¶ 52-57 (complaint alleging lone claim for common law fraud). Second, the Standing Order on its face relates to *limits* on ordered venue and jurisdictional discovery (such as "the number of interrogatories, requests for production, requests for admission, depositions, and/or deposition hours"). It does *not* apply to the situation, as here, in which Judge Manske exercised his broad discretion to find jurisdictional discovery inappropriate altogether, as such discovery would not resolve the issues in Google's motion to dismiss. Dkt. 29 at 4-7; *e.g.*, *Freeman v. U.S.*, 556 F.3d 326, 342 (5th Cir. 2009) (discovery must be "likely to produce the facts needed to withstand" dismissal). CyWee's request for a hearing based on a misguided view of the Court's Standing Order should therefore be rejected.

Dated: November 24, 2020

/s/ Paige Arnette Amstutz

Luann L. Simmons (*Pro Hac Vice*)

lsimmons@omm.com

Adam M. Kaplan (*Pro Hac Vice*)

akaplan@omm.com

Bill Trac (*Pro Hac Vice*)

btrac@omm.com

O'MELVENY & MYERS LLP

Two Embarcadero Center, 28th Floor

San Francisco, CA 94111-3823

Telephone: 415-984-8700

Facsimile: 415-984-8701

Paige Arnette Amstutz

State Bar No. 00796136

pamstutz@scottdoug.com

SCOTT DOUGLASS & McCONNICO LLP

303 Colorado Street, Suite 2400

Austin, TX 78701-2589

Telephone: (512) 495-6300

Facsimile: (512) 495-6399 (fax)

Attorneys for Defendant Google LLC

CERTIFICATE OF SERVICE

Pursuant to the Federal Rules of Civil Procedure and Local Rule CV-5, I hereby certify that, on November 24, 2020, all counsel of record who have appeared in this case are being served with a copy of the foregoing via the Court's CM/ECF system.

/s/ Paige Arnette Amstutz

Paige Arnette Amstutz